

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LAND SECURITIES INVESTORS LTD,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 64451</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on September 18, 2014, Gregg Near and MaryKay Kelley presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2012 actual value of the subject property.

The parties stipulated to a value of \$400,000 for Schedule No. R0461072 (3.05 acres of raw commercial land); Lot 119A-3 Chatfield Farms 1-A 3rd Amendment.

Subject property is described as follows:

**Douglas County Schedule No. 0393341
Raw land
Most of Project Area 13 Roxborough Downs #2**

The subject property consists of 12.985 acres of land zoned for residential development (planned development or PD). While the original larger 1972 parcel (Project 13) totaling 27.36 acres allowed seven units per acre, some portions have been transferred for non-residential uses (golf course parking and an HOA improvement). Two parcels remain: the subject's 12.985 acreage and a 3.05 acre commercial parcel (Schedule No. R0461072). The subject parcel is shaped irregularly with varying terrain, is gated, and is adjacent to the Arrowhead Golf Course with views of the golf course and rock outcroppings.

Respondent assigned an actual value of \$520,377 for the subject parcel. Petitioner is requesting a value of \$150,000.

Petitioner's witness, Mike Shafer, Principal of Property Tax Refund Consultants, LLC, described the subject parcel as very steep with some rocky terrain resulting in construction challenges.

Mr. Shafer prepared a consulting assignment for raw land value of the subject's 12.985 acres. He discussed the economic downturn and poor real estate market during the base period (January 1, 2009 through June 30, 2010), which he thought better reflected values for the subject property than prior years (pre-2009) in which values were higher. Also, he considered the physical nature of Roxborough (varying terrain with rock outcroppings) unique and declined sale selection from other areas.

While reviewing seven Co-Star sales, Mr. Shafer relied on Sales One through Four due to their proximity to Roxborough. They ranged in sale price from \$372,800 to \$2,405,200 and in size from 35.01 to 160 acres. After adjustments were made, sale prices ranged from \$103,702 to \$224,477 with a value conclusion of \$150,000. Specific addresses were not identified, and adjustments were based on the witness's experience in appraisal.

Mr. Shafer then applied present worth discounting based on 90 buildable lots at seven units per acre (per the original 1972 plat of the larger parcel) and historical analysis of the original larger parcel by Douglas County. He applied present worth discounting for a per-lot value of \$2,188.66 and a total value of \$196,979. Additionally, based on a hypothetical 10% completion, present worth value was calculated at a total of \$19,698.

Shafer defined the subject property's status as transitional or in the process from raw to developed. He presented a Market Approach based on transitional status with three comparable sales and a value conclusion of \$110,000. Application of present worth discounting resulted in a concluded value of \$20,000.

Mr. Shafer considered Respondent's Sales One and Two (different sellers, same purchaser) to be an assemblage and, therefore, invalid. He noted that Respondent's Sale Six, which was given primary weight, was furthest away, occurred in the extended base period, had no terrain challenges, and was dissimilar to the subject.

Respondent's witness, Virginia K. Wood, Certified Residential Appraiser, described the subject parcel as having varying terrain yet was buildable, gated, and with lovely views. She presented an amendment to the original Roxborough PD changing use to 45 single family residential units or 154 multi-family units. She valued the subject parcel as raw land, not vacant land, and, therefore, did not qualify for present worth discounting.

Ms. Wood presented a qualitative Market Approach without adjustments. It included six sales ranging in price from \$1,545,000 to \$13,743,000 and in size from 30 to 288.287 acres. She gave most weight to Sale Six.

Ms. Wood denied that any market difference existed between the base period and the extended base period. She discussed Petitioner's market sales, none of which were part of a planned development like the subject. Sales One and Two were without entitlements, and water procurement remains difficult. Sale Five was unusable land, and Sale Six was located in a farming area. Respondent's transitional sales were described as follows: Sale One was purchased at a foreclosure auction and could not be located in county records; Sale Two, a foreclosure, involved mixed use; and Sale three was a bankruptcy transaction.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2012.

Petitioner's witness, while giving most weight to his first four sales, did not convincingly discuss reconciliation for his \$150,000 Market Approach conclusion. It should be noted that adjusted values for three of his seven sales were \$200,000 or higher.

The Board notes Petitioner's argument that Respondent's Sales One and Two (different sellers, same buyer) appear to be an assemblage but notes that both properties were independently appraised, giving less weight to this argument.

In response to Petitioner's argument that pre-recession sales should not be compared to 2009 and 2010 sales, the Board attempted to compare Respondent's 2005 and 2007 sales to base period sales. It found many differences that made comparison difficult; different acreages, raw land versus platted lots, varying terrain and views, different communities (gated, golf courses), arm's length versus distress, and so on. Petitioner did not convince the Board that differences in sale prices existed.

The Board questions Petitioner's size adjustments in the Raw Land Sales Comparison Approach (Pet. 1, p. 12). Positive 20% adjustments were made to Sales One and Two (both at 160 acres) in comparison to the subject's 12.985 acres. However, Petitioner's Sale Three and Four (both 35.01 acres) received a negative 10% adjustment. Petitioner's witness also admitted he originally considered Sale One and Sale Two to be 320 acres and, when confronted with evidence the sales were half the size, he stated the adjustment would not change. Then, based on the Board's questions, he admitted the adjustments for Sale Three and Four were in error and should have been reversed. The adjusted indications, based on the correct information are Sale One, \$224,47; Sale Two, \$214,658 (Pet. 2, p. 4) Sale Three \$180,232; Sale Four \$131,356 (3 & 4 adjusted correctly). Petitioner's comparable sales, when correctly adjusted, far exceed his value conclusion of \$115,000.

Petitioner argued that Respondent placed greatest weight on Sale Six, which was located on level and in a more marketable area (Parker). Respondent's witness responded that Sale Six does not have the subject's walkout potential nor was it in a gated golf course area with superior views. The Board finds this sale to be comparable to the subject parcel.

The Board gives little weight to Petitioner's market approach based on the subject's transitional status. First, two of the sales far exceed the subject's size and should not have been

selected for comparison. Second, the transitional status of the comparable sales is not defined and could be valued differently based on legal and physical factors.

The Board is persuaded that present worth discounting is inappropriate and finds Respondent's analysis more convincing. Additionally, Petitioner's witness made errors in his analysis rendering his arguments less convincing.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that Respondent's comparable sales and adjustments to the sales accurately reflect the market value for the subject property.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

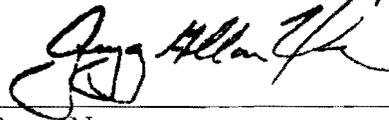
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

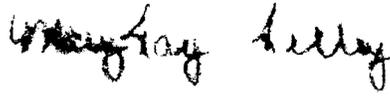
Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 20th day of October, 2014.

BOARD OF ASSESSMENT APPEALS

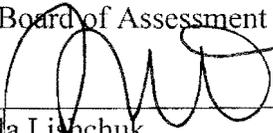


Gregg Near



MaryKay Kelley

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.



Milla Lishchuk

